

INITIAL STATEMENT OF REASONS

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY (Cal/EPA) ENVIRONMENTAL JUSTICE SMALL GRANT PROGRAM

Title 27: Environmental Protection

Chapter 3: Environmental Justice Small Grants Program

Article 1: Procedures and Criteria for Environmental Justice Small Grants Program

SPECIFIC PURPOSE OF THE REGULATIONS

The proposed regulations will establish the Environmental Justice Small Grant Program. These regulations describe program criteria for applicants seeking grant funds under the Environmental Justice Small Grant Program. The specific purposes are:

- (1) To describe procedures to apply for the Environmental Justice Small Grant Program.
- (2) To describe criteria to be used in determining which applications will be funded.
- (3) To describe the administrative and fiscal requirements governing the receipt and expenditure of the grant funds.

NECESSITY

Existing Law requires the California Environmental Protection Agency to develop policies, and to implement and coordinate various activities within the Agency relating to environmental justice. Effective January 1, 2003, the Legislature established the Environmental Justice Small Grant Program (AB 2312 of the Public Resource Code, Section 71116) to award grants on a competitive basis to nonprofit entities, community groups and federally recognized tribal governments that are working on or plan to carry out projects to address environmental justice issues. Section 71116 of the Public Resource Code specifically requires that the California Environmental Protection Agency adopt regulations to implement the Environmental Justice Small Grant Program. In adopting the Environmental Justice Small Grant, the Secretary has determined, in the absence of any state Environmental Justice Small Grant Program, that the U.S. Environmental Protection Agency Small Grant Program (which has been in existence since 1994) has demonstrated the successful delivery of environmental protection projects to communities working on environmental justice issues at a local level. Therefore, the new regulations to adopt the Environmental Justice Small Grant Program will be similar to the existing U.S. EPA procedures, both for ease of use and to duplicate the success the U.S. EPA has had in funding projects that address environmental justice issues.

SECTION 10050. PURPOSE AND SCOPE OF ARTICLE

This section is necessary in order to describe the purpose of the Environmental Justice Small Grant Program and to advise prospective applicants of the procedures, criteria, and the

administrative and fiscal requirements involved in the Environmental Justice Small Grant Program.

SECTION 10051. DEFINITIONS.

Section 10051, (a)- This section is necessary to incorporate the definitions contained in 71116(c)(2) and 71116(j) of the Public Resource Code.

Section 10051, (b)- This definition is necessary to explain the acronym “Cal/EPA” which is used in the regulatory text.

Section 10051, (c)- This subsection was added to define the term “Secretary.” Section 71116 (a) gives Cal/EPA the jurisdiction to establish the Environmental Justice Small Grant Program. The definition is necessary to explain that the Secretary of Cal/EPA or his or her designee(s) is responsible for the administration of the program.

SECTION 10052. GRANT AWARD.

Section 10052, (a)- This subsection is needed to advise applicants that the maximum amount of a grant award authorized by statute (Section 71116 (i) of the Public Resource Code) is twenty thousand dollars (\$20,0000).

SECTION 10053. RESTRICTIONS ON ENVIRONMENTAL JUSTICE SMALL GRANTS.

Section 10053, (a)- This section is necessary to alert grant applicants to the grant restrictions imposed by Sections 71116(d), 71116(e), and 71116(g) of the Public Resource Code.

Section 10053, (b)- This section is necessary to describe the additional restrictions placed upon the use of grant awards. This section was modeled after the U.S. EPA Small Grants Program – Application Guidance FY ‘03.

SECTION 10054. GRANT APPLICATION PROCEDURES.

Section 10054, (a)- Section 71116 (a)(1) of the Public Resource Code states that the implementation of the Environmental Justice Small Grant Program is to include specific procedures for the application process. This section is necessary to identify and specify the components of the Environmental Justice Small Grant Program application to ensure that each applicant knows the process for obtaining the grant funds. The procedures outlined in this section were modeled after the United States Environmental Protection Agency (EPA) Small Grant Program Application Guidance Fiscal Year 2003. The success of the EPA Small Grant Program was taken into consideration for this section.

Section 10054, (a)(1) - The applicant, along with the application, will be required to submit a narrative/work plan which will describe the applicant’s proposed project (section was modeled after the US EPA Small Grants Program FY ‘03).

Section 10054, (A)- This section is necessary to ensure that the applicant describes the proposed project. The objectives of the proposed project are necessary to evaluate what outcome is expected of the project (section was modeled after the US EPA Small Grant Program FY '03).

Section 10054, (B)- This section is necessary to specify that the narrative/work plan will be used as the primary basis for grant funding and to ensure that narrative/work plan is submitted to the Secretary in accordance with any established timelines (section was modeled after the US EPA Small Grant Program FY '03).

Section 10054, (C)- This section is necessary to list the information that a narrative/work plan must include (section was modeled after the US EPA Small Grant Program FY '03).

Section 10054, (C)(1)- This section is necessary to ensure that the narrative/work plan identifies the environmental justice issues that the project will address (section was modeled after the US EPA Small Grant Program FY '03).

Section 10054, (C)(2)- This section is necessary to ensure that the narrative/work plan identifies the environmental community that the project will target (section was modeled after the US EPA Small Grant Program FY '03).

Section 10054, (C)(3)- This section is necessary to evaluate the outcome that is expected of the project (section was modeled after the US EPA Small Grant Program FY '03).

Section 10054, (C)(4)- This information is necessary to ascertain whether the proposed project is a new model which may be copied for other settings at a future date (section was modeled after the US EPA Small Grant Program FY '03).

Section 10054, (C)(5)- This section is necessary to determine the organization's objectives, mission and goals (section was modeled after the US EPA Small Grant Program FY '03).

Section 10054, (C)(6)- This section is necessary to determine the permanence of the applicant's organization (section was modeled after the US EPA Small Grant Program FY '03).

Section 10054, (C)(7)- This section is necessary to determine what areas the organization considers it has been successful in the past and its ability to carry out the grant award objective (section was modeled after the US EPA Small Grant Program FY '03).

Section 10054, (C)(8)- This section is necessary to allow Cal/EPA to evaluate the types of plans, timeframes, and expected results to meet the requirements in the grant publication (section was modeled after the US EPA Small Grant Program FY '03).

Section 10054, (C)(9)- This section is necessary to ensure that a description of the project is provided and to ensure that an environmental justice community will be the target audience of the project (section was modeled after the US EPA Small Grant Program FY '03).

Section 10054, (C)(10)- This section is necessary to explain what processes will be in place to evaluate and measure success. It may also demonstrate whether the applicant has considered the benefits and challenges associated with the project (section was modeled after the US EPA Small Grant Program FY '03).

Section 10054, (C)(11)- This section is necessary to provide Cal/EPA with the qualifications of three key personnel who will be involved in the project and which of these persons will be the lead over the project. This information will be used to ensure qualified staff are available to direct the project and assign areas of responsibility (section was modeled after the US EPA Small Grant Program FY '03).

Section 10054, (C)(12)- This section is necessary to demonstrate that entities other than the recipient organization that are significantly involved in the project have acknowledged their commitment to the project (section was modeled after the US EPA Small Grant Program FY '03).

Section 10054, (C)(13)- This section is necessary to obtain information on the nature of the organization and request documentation needed to verify the organization's nonprofit status (section was modeled after the US EPA Small Grant Program FY '03).

Section 10054, (C)(14)- This information is necessary to demonstrate that the proposed project can work reasonably within the grant award amount to accomplish its goals (section was modeled after the US EPA Small Grant Program FY '03).

SECTION 10055. ELIGIBILITY PROCESS FOR AWARDING GRANTS AND CRITERIA.

Section 10055, (a)- This section is necessary to provide fair competition to applicants who are able to meet the criteria. This sections will also ensure that grant applications will meet all applicable requirements as described in Section 71116 of the Public Resource Code and the requirements described in these regulations.

Section 10055, (b)- This section is necessary in order to identify and outline the criteria that will be used to evaluate grant applications (Section 71116 (a)(1) of the Public Resource Code states that specific criteria be established for the Environmental Justice Small Grant Program). The criteria used for the Environmental Justice Small Grant Program is the same criteria used in the EPA Small Grant Program- Application Guidance FY '03.

Section 10055, (c)- This section is necessary to address the number of applications that will be accepted for separate and distinct projects or activities. This section also announces that prior grant recipients are unrestricted from applying for future grant awards. The Secretary has modeled this section after the U.S. EPA Office of Environmental Justice Small Grants Program – Application Guidance FY '03.

Section 10055, (d)- This section announces that preference may be given to organizations that have not previously received grants. Nothing in statute prohibits the Secretary from awarding

more than one grant to a prior grant recipient. The Secretary will encourage eligible entities to apply for grant funds and program participation from organizations that have never received grant awards. This section was modeled after the U.S. EPA Small Grants Program-Application Guidance FY '03.

Section 10055, (e)- This section is necessary in order to advise how the proposed application will be evaluated. This section was modeled after the EPA Small Grants Program-Application Guidance FY '03.

Section 10055, (f)- This section advises that the Secretary will compare the applications and make final selections and, in making a selection, the Secretary may consider geographic and socioeconomic balance; costs, and projects whose benefits can be sustained after the grant is completed. This section was modeled after the EPA Small Grant Program- Application Guidance FY '03.

Section 10055, (g)- This section describes the process for notifying finalists. It also advises the finalist(s) that they may be required to submit additional information prior to receiving grant funds. This section was modeled after the U.S. EPA Small Grants Program – Application Guidance FY '03.

Section 10055, (h)-This section is necessary in order to identify and specify that the decisions made by the Secretary concerning grant funding are final and not subject to appeal. The decisions are an exercise of discretion on the part of the Secretary and the enabling statutes for the program do not provide a mechanism for appeals of those decisions. There is also no higher authority within the agency to appeal the Secretary's decisions to. The Secretary would have to develop a separate appeal board and that would be cost prohibitive.

Section 10055, (i)- This section applies to all grantees and notifies them of the requirement to certify their compliance with all state laws, regulations, and requirements before receiving funds. This section was modeled after the U.S. EPA Small Grants Program – Application Guidance FY '03.

SECTION 10056. PROJECT PERIOD AND FINAL REPORTS

Section 71116 (a)(2) of the Public Resource Code states that a grant recipient is required to submit a written report documenting the expenditures of the grant fund and the results of the funded project. Therefore, this section is required in order to establish the requirement that a grant recipient must submit reports to the Secretary during the project period and upon completion of the project. The reports are required in order to establish that the grant funds were used in accordance with the grant agreement.

Section 10056, (a)- This section is necessary to address project completion time frame to prevent incomplete projects and coincide fiscal year time periods. The Secretary has modeled this section after the U.S. EPA Small Grants Program – Application Guidance FY '03.

Section 10056, (b)- This section is necessary to identify what organization is responsible for the successful completion of the project. The Secretary has modeled this section after the U.S. EPA Small Grants Program – Application Guidance FY ‘03.

Section 10056, (c)- This section is necessary to describe the grant recipient reporting period. This section was modeled after the U.S. EPA Small Grants Program – Application Guidance FY ‘03.

Section 10056, (d)- This section is necessary to describe what the Secretary will do with grantees’ final reports. This section was modeled after the U.S. EPA Small Grants Program – Application Guidance FY ‘03.

Section 10056, (e)- This section is necessary to explain that an audit or financial account may be required of a grant recipient. This section was modeled after the U.S. EPA Small Grants Program – Application Guidance FY ‘03.

Section 10056, (f)- This section is necessary to explain the forfeiture of unused grant funds. This will allow the Agency to make funds available for other projects. This section was modeled after the U.S. EPA Small Grants Program – Application Guidance FY ‘03.

TECHNICAL, THEORETICAL, AND/OR EMPIRICAL STUDY, REPORTS, OR DOCUMENTS

The Secretary reviewed the U.S. EPA Small Grant Program Application Guidance FY 2003 in preparing these regulations.

REASONABLE ALTERNATIVES TO THE PROPOSED REGULATORY ACTION

The proposed regulations are required to implement Section 71116 of the Public Resource Code that authorized the Secretary to establish the Environmental Justice Small Grant Program. No other alternative grant program authorized under California statute exists to fulfill the objectives outlined in this Program.

REASONABLE ALTERNATIVES TO THE PROPOSED REGULATORY ACTION THAT WOULD LESSEN ANY ADVERSE IMPACT ON SMALL BUSINESS

The Cal/EPA Secretary has determined that the Environmental Justice Small Grant Program will not affect small businesses because these regulations do not directly regulate businesses nor will it create or eliminate jobs or new or existing businesses within the state of California. Therefore, no alternatives are identified to lessen any adverse impact on small businesses.

EVIDENCE SUPPORTING FINDING OF NO SIGNIFICANT ADVERSE ECONOMIC IMPACT ON ANY SMALL BUSINESS

This regulatory action affects the distribution of environmental justice small grants to community groups that are working to address environmental justice issues. The targeted audience for the

environmental justice small grants program includes nonprofit entities and federally recognized tribal governments, not small business. The agency is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action because a private individual cannot qualify grant funds. Therefore, no significant adverse economic impact on any small business was identified.

CONFLICT WITH AND OR DUPLICATION OF FEDERAL REGULATIONS

The Secretary has determined that the proposed regulations do not conflict with or duplicate any Federal regulations.